

(3) Advanced biofuel producers will be paid on the basis of the amount of eligible renewable energy content of the advanced biofuels only if the producer provides documentation sufficient, including a Certificate of Analysis, for the Agency to determine the eligible renewable energy content for which payment is being requested, and quantity produced through such documentation as, but not limited to, records of sale and calibrated flow meter records.

(4) Payment will be made to only one eligible advanced biofuel producer per advanced biofuel facility.

(5) Subject to other provisions of this section, advanced biofuel producers shall be paid any sum due subject to the requirements and refund provisions of this subpart.

(6) Advanced biofuels produced under the situations identified in paragraphs (e)(6)(i) through (e)(6)(iii) of this section are ineligible for incremental production payment, but are still eligible for actual production payment.

(i) Advanced biofuels produced at an advanced biofuel facility that did not produce any eligible advanced biofuel in year prior to the fiscal year in which payment is sought (e.g., a new advanced biofuel facility).

(ii) Advanced biofuels produced at an advanced biofuel facility that had 20 or more days (excluding weekends) of non-production of eligible advanced biofuels during the fiscal year immediately prior to the fiscal year in which payment is sought.

(iii) Advanced biofuels produced from forest biomass.

(iv) For larger producers only, when all of the funds available to larger producers have been distributed based on actual production.

(7) If an advanced biofuel producer transfers any production capacity for one advanced biofuel facility to another, such transferred production capacity shall be considered production for the advanced biofuel facility to which the production was transferred.

(8) A producer will only be paid for the advanced biofuels identified in the enrollment application submitted during the sign-up period and which are actually produced during the fiscal year. If the producer starts producing a

new advanced biofuel or changes the type of advanced biofuel during the fiscal year, the producer will not receive any payments for those new advanced biofuels. However, during each sign-up period, a producer can identify new advanced biofuels and production levels compared to the previous year.

(9) When determining the quantity of eligible advanced biofuel, if an applicant is blending its advanced biofuel using ineligible feedstocks (e.g., fossil gasoline or methanol, corn kernel starch), only the quantity of advanced biofuel being produced from eligible feedstocks will be used in determining the payment rates and for which payments will be made.

§ 4288.132 Payment adjustments.

The Agency will adjust the payments otherwise payable to the advanced biofuel producer if there is a difference between the amount actually produced and the amount determined by the Agency to be eligible for payment.

§ 4288.133 Payment liability.

Any payment, or portion thereof, made under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the advanced biofuel, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government.

§ 4288.134 Refunds and interest payments.

An eligible advanced biofuel producer who receives payments under this subpart may be required to refund such payments as specified in this section. If the Agency suspects fraudulent representation through its site visits and records inspections under § 4288.105(b), it will be referred to the Office of Inspector General for appropriate action.

(a) An eligible advanced biofuel producer receiving payments under this subpart shall become ineligible if the Agency determines the advanced biofuel producer has:

- (1) Made any fraudulent representation; or
- (2) Misrepresented any material fact affecting a Program determination.